



HOUSE OF REPRESENTATIVES

SB 1388

rulemaking exemption; one-year review

Prime Sponsor: Senator Burges, LD 22

DP Committee on Government and Higher Education

DP Caucus and COW

X As Transmitted to the Governor

OVERVIEW

SB 1388 outlines procedures for reviewing rules adopted pursuant to a one-time rulemaking exemption by the Legislature.

PROVISIONS

1. Requires any agency granted a one-time rulemaking exemption by the Legislature to review the rules within one year after adoption to determine if the rule should be amended or repealed.

Agency Report

2. Specifies an agency must prepare and obtain the Governor's Regulatory Review Council (GRRC) approval of a written report summarizing findings, supporting reasons and proposed course of action.
3. States an agency's report must include a concise analysis of the following:
 - a. the rule's effectiveness in achieving its objectives;
 - b. written criticisms of the rule received since adoption;
 - c. authorization of the rule by existing statutes;
 - d. whether the rule is consistent with statutes, other agency rules and current agency enforcement policy;
 - e. the rule's clarity, conciseness and understandability;
 - f. estimated economic, small business, and consumer impact;
 - g. any analysis submitted to the agency regarding the rule's impact on the state's business competitiveness as compared to other states;
 - h. that the agency completed any additional process required by law, if applicable;
 - i. a determination that the benefits of the rule outweigh the probable costs and the rule imposes the least burden and costs to people regulated by the rule;
 - j. a determination that the rule is not more stringent than federal law unless there is statutory authority to exceed federal law; and
 - k. whether the rule complies with requirements relating to the issuance of permits and licenses if applicable.
4. Allows an agency to include the text of proposed expedited rule in the report.
5. Permits GRRC, upon determination that a rule is materially flawed, to require an agency to propose an amendment or repeal rules within six months of GRRC's meeting considering the report that:
 - a. are not authorized by statute;

- b. are inconsistent with other statutes, rules or agency enforcement policies resulting in a significant burden on the regulated public;
 - c. impose probable cost that significantly exceed the probable benefits;
 - d. are more stringent than federal law and there is no statutory authority to exceed the requirements of the federal law;
 - e. are not clear, concise and understandable;
 - f. does not use general permits, if applicable;
 - g. does not impose the least burden to people regulated; or
 - h. does not rely on valid scientific or reliable principles and methods.
 - i. In making a determination of validity or reliability GRRC must consider factors listed statute.
6. Allows an agency that cannot provide the written report by its due date to file for an extension.

Government Regulatory Review Council

7. Requires an agency to notify GRRC of an amendment or repeal of a rule for which GRRC has set an expiration date on.
8. Stipulates if an agency does not amend or repeal the rule by a date specified by the GRRC the rule automatically expires.
9. Requires the GRRC to file a notice of rule expiration with the Secretary of State (SOS) and notify the agency of the expiration of the rule.
10. Stipulates that the rule expires if an agency fails to submit its report, file for extension or does not submit its report within the extension period and GRRC must:
- a. publish a notice in the next register stating the rule has expired and is no longer enforceable;
 - b. notify the SOS that the rule has expired and is to be removed from the [code](#); and
 - c. notify the agency the rule has expired and is no longer enforceable.
11. Requires GRRC to send a written notice to the agency's director 90 days before an agency's report is due.
12. Permits an agency to request an extension of up to six months by sending a written request identifying the reason and demonstrates good cause.

Miscellaneous

13. Instructs an agency to follow statutory requirements to reestablish an expired rule.
14. Defines *agency*, *council* and *rule*.

CURRENT LAW

GRRC consists of the following five members, with the Director of the Arizona Department of Administration serving as an ex officio, appointed by the Governor: 1) one member who represents the public interest; 2) at one who represents the business community; 3) one member who is a small business owner; 4) one from a list of three who are not legislators submitted by the President of the Senate; and 5) one from a list of three who are not legislators submitted by the Speaker of the House of Representatives ([A.R.S. § 41-1051](#)). An agency must prepare and transmit a rule to the GRRC and obtain GRRC's approval of the rule and its preamble and economic, small business and consumer impact statement. Within 120 days of receiving the rule

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and impact statement GRRC must review and approve or return part or the entire rule and impact statement ([A.R.S. § 41-1052](#)).